

**Proposed Substitute
Bill No. 219**

LCO No. 2998

AN ACT CONCERNING PROBATE COURT OPERATIONS.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. (NEW) (*Effective October 1, 2016*) (a) If a Probate Court
2 finds, after notice and hearing on any petition, application or motion,
3 that the court does not have jurisdiction over the matter but that
4 another Probate Court of this state would have jurisdiction to hear the
5 petition, application or motion, the court may order that the file be
6 transferred to the court that would have jurisdiction over the matter or
7 may dismiss the petition for lack of jurisdiction. If the transferring
8 court finds that more than one Probate Court of this state may have
9 jurisdiction over the matter, the transferring court may order transfer
10 to the Probate Court that the transferring court finds is the most
11 convenient forum for the parties. The transferring court shall make
12 written findings on the basis for its determination that the transferee
13 court has jurisdiction over the matter and, if applicable, which court is
14 the most convenient forum for the parties. The transferring court's
15 findings shall be conclusive for all further proceedings in the matter,
16 provided a transfer order under this section shall be subject to appeal
17 as provided in section 45a-186 of the general statutes.

18 (b) Upon issuance of a transfer order under subsection (a) of this
19 section, the transferring court shall cause certified copies of all

20 documents in the transferring court's file to be delivered to the
21 transferee court. The transferee court shall proceed on the underlying
22 petition, application or motion as if it had originally been filed with the
23 transferee court. No additional filing fee shall apply.

24 (c) Nothing in this section shall prevent a court that has jurisdiction
25 over a case from transferring the case to another court under a statute
26 authorizing such transfer.

27 Sec. 2. Section 45a-288 of the general statutes is repealed and the
28 following is substituted in lieu thereof (*Effective October 1, 2016*):

29 (a) When a will conveying property situated in this state has been
30 proved and established out of this state by a court of competent
31 jurisdiction, the executor of such will or any person interested in such
32 property may present to the [court of probate] Probate Court in the
33 district determined under the provisions of section 45a-287, an
34 authenticated and exemplified copy of such will and of the record of
35 the proceedings proving and establishing the will and request that
36 such copies be filed and recorded. The request shall be accompanied
37 by a complete statement in writing of the property and estate of the
38 decedent in this state. If, upon a hearing, after such notice to the
39 [Commissioner of Revenue Services and other] parties in interest as the
40 court orders, no sufficient objection is shown, the [court of probate]
41 Probate Court shall order such copies to be filed and recorded, and
42 they shall thereupon become a part of the files and records of such
43 court, and shall have the same effect as if such will had been originally
44 proved and established in such court. [of probate. Notwithstanding
45 any objection by said commissioner to the domicile of the decedent as
46 claimed on an application to place a will on file, the court may, in the
47 absence of objection by any other interested party, order the copies to
48 be filed and recorded subject only to a subsequent and final finding of
49 domicile as provided in section 45a-309.]

50 (b) Nothing in this section shall give effect to a will made in this
51 state by an inhabitant thereof which has not been executed according
52 to the laws of this state.

53 (c) If the [court of probate] Probate Court finds sufficient objection
54 to such will, the applicant shall offer competent proof of the contents
55 and legal sufficiency of the will except that the original thereof need
56 not be produced unless so directed by the [court of probate] Probate
57 Court.

58 Sec. 3. Subsection (g) of section 45a-656b of the general statutes is
59 repealed and the following is substituted in lieu thereof (*Effective*
60 *October 1, 2016*):

61 (g) A person under conservatorship may waive the right to a
62 hearing required under this section if the attorney for the person under
63 conservatorship has consulted with the person under conservatorship
64 and the attorney has filed with the court a record of the waiver. Such a
65 waiver shall be invalid if the waiver does not represent the wishes of
66 the person under conservatorship. If a person under voluntary
67 representation pursuant to section 45a-646 does not have an attorney,
68 the court shall conduct a hearing to determine whether the waiver
69 represents the person's wishes.

70 Sec. 4. Section 45a-106a of the 2016 supplement to the general
71 statutes is repealed and the following is substituted in lieu thereof
72 (*Effective October 1, 2016*):

73 (a) The fees set forth in this section apply to each filing made in a
74 Probate Court on or after January 1, 2016, in any matter other than a
75 decedent's estate.

76 (b) The fee to file each of the following motions, petitions or
77 applications in a Probate Court is two hundred twenty-five dollars:

78 (1) With respect to a minor child: (A) Appoint a temporary
79 guardian, temporary custodian, guardian, coguardian, permanent
80 guardian or statutory parent, (B) remove a guardian, including the
81 appointment of another guardian, (C) reinstate a parent as guardian,
82 (D) terminate parental rights, including the appointment of a guardian
83 or statutory parent, (E) grant visitation, (F) make findings regarding

84 special immigrant juvenile status, (G) approve placement of a child for
85 adoption outside this state, (H) approve an adoption, [(H)] (I) validate
86 a foreign adoption, [(I)] (J) review, modify or enforce a cooperative
87 postadoption agreement, (K) review an order concerning contact
88 between an adopted child and his or her siblings, (L) resolve a dispute
89 concerning a standby guardian, [(J)] (M) approve a plan for voluntary
90 services provided by the Department of Children and Families, [(K)]
91 (N) determine whether the termination of voluntary services provided
92 by the Department of Children and Families is in accordance with
93 applicable regulations, (O) conduct an in-court review to modify an
94 order, [(L)] (P) grant emancipation, [(M)] (Q) grant approval to marry,
95 [(N)] (R) transfer funds to a custodian under sections 45a-557 to 45a-
96 560b, inclusive, [(O)] (S) appoint a successor custodian under section
97 45a-559c, (T) resolve a dispute concerning custodianship under
98 sections 45a-557 to 45a-560b, inclusive, and [(P)] (U) grant authority to
99 purchase real estate;

100 (2) Determine paternity;

101 (3) Determine the age and date of birth of an adopted person born
102 outside the United States;

103 (4) With respect to adoption records: (A) Appoint a guardian ad
104 litem for a biological relative who cannot be located or appears to be
105 incompetent, (B) appeal the refusal of an agency to release information,
106 (C) release medical information when required for treatment, and (D)
107 grant access to an original birth certificate;

108 (5) Approve an adult adoption;

109 (6) With respect to a conservatorship: (A) Appoint a temporary
110 conservator, conservator or special limited conservator, (B) change
111 residence, terminate a tenancy or lease, sell or dispose household
112 furnishings, or place in a long-term care facility, (C) determine
113 competency to vote, (D) approve a support allowance for a spouse, (E)
114 grant authority to elect the spousal share, (F) grant authority to
115 purchase real estate, (G) give instructions regarding administration of

116 a joint asset or liability, (H) distribute gifts, (I) grant authority to
117 consent to involuntary medication, (J) determine whether informed
118 consent has been given for voluntary admission at a hospital for
119 psychiatric disabilities, (K) determine life-sustaining medical
120 treatment, [(K)] (L) transfer to or from another state, [(L)] (M) modify
121 the conservatorship in connection with a periodic review, [(M)] (N)
122 excuse accounts under rules of procedure approved by the Supreme
123 Court under section 45a-78, (O) terminate the conservatorship, and
124 [(N)] (P) grant a writ of habeas corpus;

125 (7) Resolve a dispute concerning advance directives or life-
126 sustaining medical treatment when the individual does not have a
127 conservator or guardian;

128 (8) With respect to an elderly person as defined under section 17b-
129 450: (A) Enjoin an individual from interfering with the provision of
130 protective services to [an elderly person] such person, and (B)
131 authorize the Commissioner of Social services to enter the premises of
132 the person to determine whether such person needs protective
133 services;

134 (9) With respect to an adult with intellectual disability: (A) Appoint
135 a temporary limited guardian, guardian or standby guardian, (B) grant
136 visitation, (C) determine competency to vote, (D) modify the
137 guardianship in connection with a periodic review, [(D)] (E) determine
138 life-sustaining medical treatment, [(E)] (F) approve an involuntary
139 placement, [(F)] (G) review an involuntary placement, and [(G)] (H)
140 grant a writ of habeas corpus;

141 (10) With respect to psychiatric disability: (A) Commit an individual
142 for treatment, (B) issue a warrant for examination of an individual at a
143 general hospital, (C) determine whether there is probable cause to
144 continue an involuntary confinement, (D) review an involuntary
145 confinement for possible release, (E) authorize shock therapy, (F)
146 authorize medication for treatment of psychiatric disability, (G) review
147 the status of an individual under the age of sixteen as a voluntary
148 patient, and (H) recommit an individual under the age of sixteen for

149 further treatment;

150 (11) With respect to drug or alcohol dependency: (A) Commit an
151 individual for treatment, (B) recommit an individual for further
152 treatment, and (C) terminate an involuntary confinement;

153 (12) With respect to tuberculosis: (A) Commit an individual for
154 treatment, (B) issue a warrant to enforce an examination order, and (C)
155 terminate an involuntary confinement;

156 (13) Compel an account by the trustee of an inter vivos trust,
157 attorney-in-fact, custodian under sections 45a-557 to 45a-560b,
158 inclusive, or treasurer of an ecclesiastical society or cemetery
159 association;

160 (14) With respect to a testamentary or inter vivos trust: (A)
161 Construe, divide, reform or terminate the trust, [(B) appoint a trustee
162 to fill a vacancy in the office of trustee, (C) determine title to property,
163 (D) apply the doctrine of cy pres or approximation, (E) authorize the
164 trustee to disclaim an interest in property, and (F)] (B) enforce the
165 provisions of a pet trust, and (C) excuse a final account under rules of
166 procedure approved by the Supreme Court under section 45a-78;

167 (15) Authorize a fiduciary to establish a trust;

168 (16) Appoint a trustee for a missing person;

169 (17) Change a person's name;

170 (18) Issue an order to amend the birth certificate of an individual
171 born in another state to reflect a gender change;

172 (19) Require the Department of Public Health to issue a delayed
173 birth certificate;

174 (20) Compel the board of a cemetery association to disclose the
175 minutes of the annual meeting;

176 (21) Issue an order to protect a grave marker;

177 (22) Restore rights to purchase, possess and transport firearms;

178 (23) Issue an order permitting sterilization of an individual; and

179 (24) With respect to any case in a Probate Court other than a
180 decedent's estate: (A) Compel or approve an action by the fiduciary,
181 (B) give advice or instruction to the fiduciary, (C) authorize a fiduciary
182 to compromise a claim, (D) list, sell or mortgage real property, (E)
183 determine title to property, (F) resolve a dispute between cofiduciaries
184 or among fiduciaries, (G) remove a fiduciary, (H) appoint a successor
185 fiduciary or fill a vacancy in the office of fiduciary, (I) approve
186 fiduciary or attorney's fees, (J) apply the doctrine of cy pres or
187 approximation, (K) reconsider, modify or revoke an order, and (L)
188 decide an action on a probate bond.

189 (c) The fee to file a petition for custody of the remains of a deceased
190 person in a Probate Court is one hundred fifty dollars, except that the
191 court shall waive the fee if the state is obligated to pay funeral and
192 burial expenses under section 17b-84.

193 (d) The fee for a fiduciary to request the release of funds from a
194 restricted account in a Probate Court is one hundred fifty dollars,
195 except that the court shall waive the fee if the court approves the
196 request without notice and hearing in accordance with the rules of
197 procedure adopted by the Supreme Court under section 45a-78.

198 (e) The fee for mediation conducted by a member of the panel
199 established by the Probate Court Administrator is three hundred fifty
200 dollars per day or part thereof.

201 (f) The fee to request a continuance in a Probate Court is fifty
202 dollars, plus the actual expenses of rescheduling the hearing that are
203 payable under section 45a-109, except that the court, for cause shown,
204 may waive either the fifty-dollar fee or the actual expenses of
205 rescheduling the hearing, or both. The fee shall be payable by the party
206 who requests the continuance of a scheduled hearing or whose failure
207 to appear necessitates the continuance.

208 (g) The fee to file a motion to permit an attorney who has not been
209 admitted as an attorney under the provisions of section 51-80 to appear
210 pro hac vice in a matter in the Probate Court is two hundred fifty
211 dollars.

212 (h) Except as provided in subsection (d) of section 45a-111, fees
213 imposed under this section shall be paid at the time of filing.

214 (i) If a statute or rule of procedure approved by the Supreme Court
215 under section 45a-78 specifies filings that may be combined into a
216 single motion, petition or application, the fee under this section for the
217 combined filing is the amount equal to the largest of the individual
218 filing fees applicable to the underlying motions, petitions or
219 applications.

220 (j) No fee shall be charged under this section if exempted or waived
221 under section 45a-111 or any other provision of the general statutes.

222 Sec. 5. Section 45a-612 of the general statutes is repealed and the
223 following is substituted in lieu thereof (*Effective October 1, 2016*):

224 [The Court of Probate may grant the right of visitation to any person
225 who has been removed as guardian of any minor child or children, any
226 relative of the minor child or children or any parent who has been
227 denied temporary custody of any minor child or children pending the
228 hearing on a removal or termination of parental rights application
229 pursuant to the provisions of sections 45a-132, 45a-593 to 45a-597,
230 inclusive, 45a-603 to 45a-622, inclusive, and 45a-629 to 45a-638,
231 inclusive] In connection with any proceeding for removal of guardian,
232 appointment of guardian for a minor who has no guardian or
233 termination of parental rights pursuant to sections 45a-603 to 45a-622,
234 inclusive, and 45a-715 to 45a-719, inclusive, as amended by this act, the
235 Probate Court may grant visitation to (1) any parent or guardian if
236 temporary custody of the minor has been granted to another pending
237 the hearing on removal or termination of parental rights, (2) any
238 person who has been removed as guardian of the minor, or (3) any
239 relative of the minor. Such order shall be according to the best

240 judgment of the court upon the facts of the case and subject to such
241 conditions and limitations as it deems equitable. In making, modifying
242 or terminating such an order, the court shall be guided by the best
243 interest of the [child] minor, giving consideration to the wishes of such
244 [child] minor if he or she is of sufficient age and capable of forming an
245 intelligent opinion. The grant of such visitation rights shall not prevent
246 any court of competent jurisdiction from thereafter acting upon the
247 custody of such [child] minor, the parental rights with respect to such
248 [child] minor or the adoption of such [child] minor, and any such court
249 may include in its decree an order terminating such visitation rights.

250 Sec. 6. Subsection (a) of section 45a-614 of the 2016 supplement to
251 the general statutes is repealed and the following is substituted in lieu
252 thereof (*Effective October 1, 2016*):

253 (a) Except as provided in subsection (b) of this section, the following
254 persons may [apply to] petition the Probate Court [for the district in
255 which the minor resides] for the removal as guardian of one or both
256 parents of the minor: (1) Any adult relative of the minor, including
257 those by blood or marriage; (2) a person with actual physical custody
258 of the minor at the time the petition is filed; or (3) counsel for the
259 minor. The petition shall be filed in the Probate Court in the district in
260 which the minor resides, is domiciled or is located at the time of the
261 filing of the petition.

262 Sec. 7. Subsection (e) of section 45a-715 of the 2016 supplement to
263 the general statutes is repealed and the following is substituted in lieu
264 thereof (*Effective October 1, 2016*):

265 (e) A petition under this section shall be filed in the Probate Court
266 for the district in which (1) the petitioner [or] resides, (2) the child
267 resides, [or,] is domiciled or is located at the time of the filing of the
268 petition, or (3) in the case of a minor who is under the guardianship of
269 any child care facility or child-placing agency, in the Probate Court for
270 the district in which [the main office or any local] any office of the
271 agency is located. If the petition is filed with respect to a child born out
272 of wedlock, the petition shall state whether there is a putative father to

273 whom notice shall be given under subdivision (2) of subsection (b) of
274 section 45a-716.

275 Sec. 8. Section 45a-644 of the general statutes is repealed and the
276 following is substituted in lieu thereof (*Effective October 1, 2016*):

277 For the purposes of [sections 45a-644] this section and sections 45a-
278 645 to 45a-663, inclusive, the following terms shall have the following
279 meanings:

280 (a) "Conservator of the estate" means a person, [a] municipal or state
281 official, [or a private profit or nonprofit] corporation, limited liability
282 company, partnership or other entity recognized under the laws of this
283 state, whether or not operated for profit, except a hospital, nursing
284 home facility, as defined in section 19a-521, or residential care home, as
285 defined in section 19a-521, appointed by the [Court of] Probate Court
286 under the provisions of [sections 45a-644] this section and sections 45a-
287 645 to 45a-663, inclusive, to supervise the financial affairs of a person
288 found to be incapable of managing his or her own affairs or of a person
289 who voluntarily asks the [Court of] Probate Court for the appointment
290 of a conservator of the estate, and includes a temporary conservator of
291 the estate appointed under the provisions of section 45a-654.

292 (b) "Conservator of the person" means a person, [a] municipal or
293 state official, [or a private profit or nonprofit] corporation, limited
294 liability company, partnership or other entity recognized under the
295 laws of this state, whether or not operated for profit, except a hospital
296 or nursing home facility as defined in section 19a-521, appointed by
297 the [Court of] Probate Court under the provisions of [sections 45a-644]
298 this section and sections 45a-645 to 45a-663, inclusive, to supervise the
299 personal affairs of a person found to be incapable of caring for himself
300 or herself or of a person who voluntarily asks the [Court of] Probate
301 Court for the appointment of a conservator of the person, and includes
302 a temporary conservator of the person appointed under the provisions
303 of section 45a-654.

304 (c) "Incapable of caring for one's self" or "incapable of caring for

305 himself or herself" means that a person has a mental, emotional or
306 physical condition that results in such person being unable to receive
307 and evaluate information or make or communicate decisions to such
308 an extent that the person is unable, even with appropriate assistance,
309 to meet essential requirements for personal needs.

310 (d) "Incapable of managing his or her affairs" means that a person
311 has a mental, emotional or physical condition that results in such
312 person being unable to receive and evaluate information or make or
313 communicate decisions to such an extent that the person is unable,
314 even with appropriate assistance, to perform the functions inherent in
315 managing his or her affairs, and the person has property that will be
316 wasted or dissipated unless adequate property management is
317 provided, or that funds are needed for the support, care or welfare of
318 the person or those entitled to be supported by the person and that the
319 person is unable to take the necessary steps to obtain or provide funds
320 needed for the support, care or welfare of the person or those entitled
321 to be supported by the person.

322 (e) "Involuntary representation" means the appointment of a
323 conservator of the person or a conservator of the estate, or both, after a
324 finding by the [Court of] Probate Court that the respondent is
325 incapable of managing his or her affairs or incapable of caring for
326 himself or herself.

327 (f) "Respondent" means an adult person for whom an application for
328 involuntary representation has been filed or an adult person who has
329 requested voluntary representation.

330 (g) "Voluntary representation" means the appointment of a
331 conservator of the person or a conservator of the estate, or both, upon
332 request of the respondent, without a finding that the respondent is
333 incapable of managing his or her affairs or incapable of caring for
334 himself or herself.

335 (h) "Conserved person" means a person for whom involuntary
336 representation is granted under [sections 45a-644] this section and

337 sections 45a-645 to 45a-663, inclusive.

338 (i) "Personal needs" means the needs of a person including, but not
339 limited to, the need for food, clothing, shelter, health care and safety.

340 (j) "Property management" means actions to (1) obtain, administer,
341 manage, protect and dispose of real and personal property, intangible
342 property, business property, benefits and income, and (2) deal with
343 financial affairs.

344 (k) "Least restrictive means of intervention" means intervention for a
345 conserved person that is sufficient to provide, within the resources
346 available to the conserved person either from the conserved person's
347 own estate or from private or public assistance, for a conserved
348 person's personal needs or property management while affording the
349 conserved person the greatest amount of independence and self-
350 determination.

351 Sec. 9. Section 45a-177 of the general statutes is repealed and the
352 following is substituted in lieu thereof (*Effective October 1, 2016*):

353 (a) All conservators, guardians [, persons appointed by the Court of
354 Probate to sell land of minors] and trustees, including those entrusted
355 with testamentary trusts unless excused by the will creating the trust,
356 shall render periodic accounts of their trusts signed under penalty of
357 false statement to the [Court of] Probate Court having jurisdiction for
358 allowance, at least once during each three-year period and more
359 frequently if required [to do so] by the court or by the will or trust
360 instrument creating the trust. [Periodic accounts for filing only may be
361 submitted to the court at any time during each three-year period.
362 Upon receipt of a periodic account, the court shall cause notice of it
363 and of its availability for examination at the court to be given in such
364 manner and to such parties as it deems reasonable. Any such party
365 may apply to the court for a hearing on the account. If an application
366 for such a hearing is not received by the court from a party in interest
367 within the time stated in the notice, the periodic account will be filed
368 without hearing thereon and without allowance or disallowance

369 thereof, and shall not be recorded.] At the end of each three-year
370 period from the date of the last allowance of a periodic account, or
371 upon the earlier receipt of a final account, there shall be a hearing on
372 all periodic accounts not previously allowed, and the final account, if
373 any, in accordance with sections 45a-178 and 45a-179, as amended by
374 this act.

375 [(b) Each such periodic account shall include an inventory of the
376 trust estate showing fully how the principal of the fund is invested and
377 the items of income and expenditure. If there has been no change in
378 the identity of the items comprising the principal of the fund since the
379 last account which has been accepted and approved, it shall not be
380 necessary to include an inventory of the trust estate.]

381 [(c)] (b) If the estate held by any person in any such fiduciary
382 capacity is less than two thousand dollars, or, in the case of a corporate
383 fiduciary under the supervision of the Banking Commissioner or any
384 other fiduciary bonded by a surety company authorized to do business
385 in this state, ten thousand dollars, such fiduciary shall not be required
386 to render such account unless so ordered by the court.

387 Sec. 10. Section 45a-179 of the general statutes is repealed and the
388 following is substituted in lieu thereof (*Effective October 1, 2016*):

389 (a) When a conservator, guardian [, trustee in insolvency] or trustee
390 of a testamentary trust exhibits his or her final account to the [Court of]
391 Probate Court for allowance, the court shall appoint a time and place
392 for a hearing on the account and shall cause notice of the hearing to be
393 given as it directs. Such fiduciary shall sign the account under penalty
394 of false statement.

395 (b) The court shall, before approving a final account of an executor
396 or administrator, hold a hearing thereon for which notice may be given
397 as the court shall direct, unless all parties interested in the estate sign
398 and file in court a written waiver of such notice.

This act shall take effect as follows and shall amend the following sections:

Section 1	<i>October 1, 2016</i>	New section
Sec. 2	<i>October 1, 2016</i>	45a-288
Sec. 3	<i>October 1, 2016</i>	45a-656b(g)
Sec. 4	<i>October 1, 2016</i>	45a-106a
Sec. 5	<i>October 1, 2016</i>	45a-612
Sec. 6	<i>October 1, 2016</i>	45a-614(a)
Sec. 7	<i>October 1, 2016</i>	45a-715(e)
Sec. 8	<i>October 1, 2016</i>	45a-644
Sec. 9	<i>October 1, 2016</i>	45a-177
Sec. 10	<i>October 1, 2016</i>	45a-179